

**REMARKS**

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-32 are pending in the application. Some of the original claims have been amended to better define the claimed invention. New claims 31-32 readable on the elected invention/species have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/new claims find solid support in the original specification and drawings. The specification has been revised in the manner kindly suggested by the Examiner in the Office Action. The Abstract has been placed in compliance with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The objections to the specification and claims are believed overcome in view of the above amendments.

The art rejections relying primarily on *Amerga* are noted. Applicants respectfully traverse the rejections, because the art as applied by the Examiner does not fairly teach or suggest all limitations of the rejected claims.

As to independent claim 1, *Amerga* does not teach or suggest the claimed method of switching between modems of an MM-MB (multimode-multiband) terminal. The reference is concerned with cell selection and therefore teaches, at best and if at all, only switching between base stations (or cells). There is no *explicit* disclosure in *Amerga* that the disclosed switching between base stations also requires a switching between modems of the terminal. The Examiner has further failed to provide evidence or analysis that such a switching between modems

*necessarily follows*<sup>1</sup> the *Amerga* disclosed switching between base stations. Thus, the Examiner has not properly established that the claimed method is *inherently* disclosed by *Amerga*.

In the absence of any explicit or implicit disclosure of the claimed modem switching in *Amerga*, Applicants respectfully submit that the rejection of claim 1 is improper.

Since the claimed method and the applied reference are fundamentally different from each other as discussed above, *Amerga* also fails to teach or disclose several features of claim 1.

For example, the applied reference does not teach or disclose the claimed time lapse and a preset CDMA-2000 ON condition time  $H_d$  as recited in step (c) of independent claim 1. it should be noted that the claimed time lapse starts if, i.e., after a determination that, the  $E_c/I_o$  value is smaller than the than  $TH_{ON}$ . In contrast, the *Amerga* number of failed cycles that the Examiner consider to read on the claimed time lapse is counted before a determination whether the signal strength meets certain requirements. See, for example, FIG. 5A of *Amerga* at block 506 (time lapse) which precedes block 508 (signal strength evaluation).

Furthermore, *Amerga* contrary to the Examiner's allegation does not teach or disclose step (e) where the MM-MB terminal is switch from the WCDMA idle state into a CDMA-2000 idle state. The cited portion, i.e., column 9 lines 12-57, of *Amerga* is about how to evaluate the measured signal strength, rather than about switching the terminal, in the idle state, from one standard to another.

For the overwhelming reasons detailed above, Applicants respectfully submit that independent claim 1 is patentable over the applied art of record.

Independent **claim 6** is patentable over *Amerga* because the reference does not teach or

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<sup>1</sup> Anticipation by inherency requires "a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis added).

disclose the claimed switching between modems, and the time lapse that starts *if* (i.e., after) the Ec/Io value is smaller than  $TH_{ON}$ , as discussed above with respect to claim 1.

Independent **claim 16** is patentable over *Amerga* because the reference does not teach or disclose the claimed switching between modems, and switching the terminal, in the idle state, from one standard to another, as discussed above with respect to claim 1.

Independent **claim 20** is patentable over *Amerga* because the reference does not teach or disclose the claimed switching between modems, as discussed above with respect to claim 1.

Independent **claim 24** is patentable over *Amerga* because the reference does not teach or disclose the claimed memory storing a program for switching between modems, and the time lapse *during* which the Ec/Io value is smaller than  $TH_{ON}$ , as discussed above with respect to claim 1.

The dependent claims, including any new claim(s), are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

As to new **claims 31-32**, *Amerga* does not teach or suggest that the CDMA-2000 modem is activated in step (d) before the MM-MB terminal leaves the overlay zone and while the WCDMA modem is still being activated to keep the MM-MB terminal in the WCDMA idle state (claim 31) or to handle the WCDMA call (claim 32). In other words, the claimed switching method allows two different modems to be activated simultaneously for facilitating the switching from WCDMA to CDMA-2000 even before the MM-MB terminal leaves the overlay zone. An advantage of embodiments implementing this feature has been discussed in the specification, i.e., to reduce the no-air delay that occurs in the conventional art if the switching is made after the MM-MB terminal leaves the overlay zone.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of

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allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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